

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3874 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

UNION OF INDIA

Versus

AHMEDABAD MUNI. CORPN. & ANR.

Appearance:

MR JD AJMERA for Petitioner

MR DS NANAVATI for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/07/97

ORAL JUDGMENT

#. The Union of India is the petitioner in this Special Civil Application which has been filed against the Ahmedabad Municipal Corporation (hereinafter referred to as 'Corporation'). So this litigation is in between, on one side, Union of India and on the other side, a statutory Corporation.

#. The dispute pertains to the bill issued by the Corporation demanding amount of Rs.13,662/= per year towards service charges for five blocks of the ownership of the petitioner. The demand of service charges from the petitioner by Corporation is stated to be ultra vires to the Article 285 of Constitution of India.

#. The dispute herein is in between the Union of India and statutory Corporation. The Apex Court in the case of M/s.Oil & Natural Gas Commission & Anr. v. Collector of Central Excise, reported in JT 1991(4) SC 158 while dealing with the dispute between public undertaking of the Central Government and the Union of India, directed the Government of India to set up a Committee consisting representatives from ministry of industries, bureau of public enterprises and ministry of law, to monitor disputes in between ministries, ministry and Government of India, ministry and Public Sector Undertakings of Government of India, and in between Public Sector Undertakings themselves, to ensure that no litigation comes to a Court or a Tribunal without the matter having been first examined by such Committee and its clearance for litigation. It has further been directed that the Government may include a representative of the ministry concerned in specific case and one from the ministry of finance in the Committee. Senior officers only should be nominated so that the Committee can function with status, control and discipline. The Apex Court has further observed that it shall be the obligation of every Court, Tribunal where such such a dispute is raised hereafter to demand a clearance from the Committee in case it has not been so pleaded and in the absence of clearance the matter would not be proceeded with.

#. This Court has also, in many cases, given directions to the State of Gujarat to constitute a high powered Committee in the lines as ordered by the Apex Court in the aforesaid case so that the dispute between the Government of Gujarat and its Public Sector Undertakings or statutory Corporation may not come to the Court directly. The money of the Corporation or of Union of India or the State Government is a public money and as far as possible it should not have been wasted in litigation. In the present case, the Union of India is a party and it is litigating against the Corporation which is a statutory authority under the Bombay Provincial Municipal Corporation Act. Such a dispute should have been resolved by a high powered Committee constituted by the Government in this respect so that the Union or the State Government or the Corporations may not litigate in the Court and waste public money. The Apex Court has

ordered for constitution of such Committee in respect of cases of concerned ministries of Union of India and other Public Sector Undertakings and on the same lines the State Government could have constituted such Committees so that such type of disputes may not come up before the Courts.

#. There is yet another reason why such litigations should be avoided to come up before Courts. The Courts are already flooded with mounting arrears of pending litigations in between private parties, Government and private parties and vice versa etc. and as such the Government should have endeavoured to see that at least those disputes should be avoided to come up before the Courts which are in between itself and Public Sector Undertaking, and statutory authorities such as Corporation herein. Where dispute is relating to the demand of Corporation of service charges in respect of properties owned by Government, then the same has to be decided by a high powered Committee to be constituted in the lines of directions given by the Apex Court in the aforesaid case. What ultimately the Government has done with the directions given by this Court in many of the cases, is not made known to this Court. However, this Court will not permit litigation between Union of India and the Corporation until a high powered Committee gives clearance to either of the party to approach this Court.

#. So this Special Civil Application is disposed of in terms that the State of Gujarat is directed to set up a Committee consisting Secretary to the Government, Finance Department, Secretary to the Government in the bureau of public enterprises, Secretary to the Government in Law Department, under the chairmanship of Chief Secretary to the Government, to monitor disputes in between Union of India or State, Union of India or Public Sector Undertakings or statutory Corporations, bodies, departments of the State Government, State Governments, Public Sector Undertakings, statutory Corporations, statutory authorities or bodies etc., and ensure that no litigation comes to the Court or Tribunal without the matter having been first examined by such Committee and its clearance for litigation. The Government may include a representative of the concerned Department in a specific case. Such Committee shall be constituted within a period of one month from the date of receipt of certified copy of this order and compliance thereof shall be reported to this Court. The petitioner is directed to file a representation in respect of grievances made by it in this Special Civil Application before such constituted Committee on receiving intimation of the constitution

thereof. The Committee, after its constitution shall inform the petitioner of its constitution. On receipt of the aforesaid representation of the petitioner, the Committee shall decide the same within a period of three months after hearing both sides. In case the dispute is not resolved by the Committee then either of the parties may raise the dispute before the Court or Tribunal only when clearance has been given for it by the Committee. Till the matter is decided by the Committee the respondent is restrained from making any demand or recovering the amount already demanded from the petitioner. A copy of this order be sent to the Chief Secretary of the State of Gujarat by special messenger in a cover on which there must be endorsement, "FOR IMMEDIATE ACTION". The office is directed to take care that a copy of this order is personally delivered to the Chief Secretary to the Government of Gujarat.

#. The Special Civil Application and Rule therein stand disposed of in aforesaid terms with no order as to costs.

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